

§ 16.9 Hearing.

(a) *Request for hearing.* (1) An employee shall file a petition for a hearing in accordance with the instructions outlined in the creditor agency's notice of offset.

(2) If the NRC is the creditor agency, a hearing may be requested by filing a written petition stating why the employee disputes the existence or amount of the debt or the repayment schedule if it was not established by written agreement between the employee and the NRC. The employee shall sign the petition and fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, which the employee believes support his or her position. The petition for a hearing must be received no later than fifteen (15) calendar days after receipt of the notice of offset unless the employee can show that the delay in meeting the deadline date was because of circumstances beyond his or her control or because of failure to receive notice of the time limit (unless otherwise aware of it).

(b) *Hearing procedures.* (1) The hearing will be presided over by a hearing official arranged by NRC (an administrative law judge or, alternatively, a hearing official not under the supervision or control of the head of the agency.)

(2) The hearing must conform to procedures contained in the Federal Claims Collection Standards 4 CFR 102.3(c). The burden is on the employee to demonstrate either that the existence or the amount of the debt is in error or that the terms of the repayment schedule would result in undue financial hardship or would be against equity and good conscience.

(3) An employee is entitled to representation of his or her choice at any stage of the proceeding. NRC attorneys may not be provided as representatives for the debtor. The NRC will not compensate the debtor for representation expenses, including hourly fees for attorneys, travel expenses, and costs for reproducing documents.

§ 16.11 Written decision.

(a) The hearing official will issue a written opinion no later than 60 days after the hearing.

(b) The written opinion must include:

(1) A statement of the facts presented to demonstrate the nature and origin of the alleged debt;

(2) The hearing official's analysis, findings, and conclusions;

(3) The amount and validity of the debt; and

(4) The repayment schedule, where appropriate.

§ 16.13 Coordinating offset with another Federal agency.

(a) *The NRC as the creditor agency.* When the NRC determines that an employee of another Federal agency owes a delinquent debt to the NRC, the NRC will, as appropriate:

(1) Arrange for a hearing upon the proper petitioning by the employee;

(2) Certify in writing that the employee owes the debt, the amount and basis of the debt, the date on which payment is due, the date the Government's right to collect the debt accrued, and that NRC procedures for salary offset implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management;

(3) If collection must be made in installments, the NRC must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(4) Advise the paying agency of the actions taken under 5 U.S.C. 5514(a) and provide the dates on which action was taken unless the employee has consented to salary offset in writing or signed a statement acknowledging receipt of procedures required by law. The written consent or acknowledgment must be sent to the paying agency;

(5) Except as otherwise provided in this paragraph, the NRC must submit a debt claim containing the information specified in paragraphs (a) (2) through (4) of this section and an installment agreement (or other instruction on the payment schedule), if applicable, to the employee's paying agency.

(6) Upon receipt of notification that the employee has transferred to another agency before the debt is collected in full, the NRC will submit a properly certified claim to the new paying agency so that collection can be resumed;